**Surendra & Ors. vs. Smt.Kunti & Ors.**

**SB Civil Writ. Petition No.3491/2006**

**Date of Order: 08th August, 2006.**

**PRESENT**

**HON'BLE MR.JUSTICE BHAGWATI PRASAD**

Mr. Om Mehta for the petitioner/s.
Mr.Suresh Shrimali for the respondent/s.

Heard learned counsel for the parties.

This is a tenant's writ petition filed against the order of ejectment passed against the landlord. The first and foremost argument of the learned counsel for the petitioner is that the petitioner is not the legitimate owner of the premises in which the tenant was living because allegedly the property was bequeathed to Smt. Kunti Devi by her father Ram Chandra by a registered gift deed. Such gift deed, according to the writ petitioner, was not bona fide and was based on incorrect facts and, therefore petitioner claimed that he is entitled to raise the point that his landlord continues to be Ram Chandra and Kunti Devi is not his landlord. He continued to pay rent to Ram Chandra and in this back ground he sent money and demand draft. The court below has not agreed with the petitioner and considered that the conduct of the petitioner amounts to denial of

title of the land lord.

The learned counsel for the petitioner submitted that mere disputing the validity of gift deed cannot come within the definition of denial of title and placed reliance on a Division Bench decision of the Madhya Pradesh High Court that he can raise these objections.

Per contra, the learned counsel for the respondent landlord submitted that the kind of stand which has been taken by the petitioner is not available to him. He relied on the decision of the Hon'ble Supreme Court in the matter of Lingala Koindala Rao v. Vootukkuri Narayana Rao(2003 AIR SCW 1 69) and has placed reliance on the following portion of para 11:

> "11. The execution and registration of the deed of settlement is not disputed. In an eviction suit between the landlord and the tenant the motive behind execution of the document conferring title on the landlord cannot be allowed to be gone into as long as the document has been executed and registered in accordance with law and the transaction is otherwise legal. It is pertinent to note that no member of the family adversely affected by the deed of settlement has chosen to lay any challenge to it."

The learned counsel for the landlord submitted that it is impermissible to the petitioner to raise such questions and since he has denied the title of the landlord therefore, the court below was right in ordering eviction.

I have given my thoughtful consideration and have considered the aspect and the law relied on.

In my considered opinion, the question of title in any way cannot be challenged. Assignment by father to daughter is a matter in between the father and daughter and it is not open to a tenant to question that. His primary concern is to pay rent to the concerned landlord and if by a gift deed which was registered, the property was bequeathed, then not paying rent to such landlord tantamounts to denial of title. Further the question of bona fide necessity has also been held in favour of the landlord and money having not been paid to the landlord, who had acquired the right, the question of default also has gone against the tenant.

In that view of the matter, exercise of jurisdiction under Art.226 and 227 of the Constitution is not called for. There is no force in the writ petition, the petition is hereby dismissed.

**( BHAGWATI PRASAD), J.**

L.George